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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 FRANK MILFORD PECK,

12 Petitioner,

13 vs.

14 WARDEN NEVEN, *et al.*,

15 Respondents.
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2:05-cv-1158-RLH-PAL

ORDER

17 In this action on a petition for writ of habeas corpus, Frank Milford Peck, a prisoner at
18 Northern Nevada Correctional Center, has filed a motion for a preliminary injunction (Docket #72),
19 seeking to enjoin the prison officials from confiscating his typewriter pursuant to a new policy
20 prohibiting inmates from possessing typewriters.


21 A preliminary injunction is an extraordinary remedy, and the right to relief must be
22 both clear and unequivocal before a court will grant an injunction. *See Schrier v. University of CO*,
23 427 F.3d 1253, 1258 (10th Cir. 2005). A request for injunctive relief that goes beyond simply
24 maintaining the status quo, “is particularly disfavored, and should not be issued unless the facts and
25 law clearly favor the moving party.” *Anderson v. United States*, 612 F.2d 1112, 1114 (9th Cir. 1979),
26 *See Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1319-20 (9th Cir. 1994). A preliminary injunction will

only be granted if the requesting party demonstrates either: (1) a combination of probable success on the merits and the possibility of irreparable harm; or (2) the existence of serious questions going to the merits and the balance of hardships tips sharply in favor of the requesting party. *LGS Architects, Inc. v. Concordia Homes of Nevada*, 434 F.3d 1150, 1155 (9th Cir. 2006); *Sony Computer Entertainment Am., Inc. v. Bleem, LLC*, 214 F.3d 1022, 1025 (9th Cir. 2000). The two formulations represent a sliding scale where the degree of irreparable harm required increases as the probability of success decreases. *Id.* A movant with questionable claims does not meet the likelihood of success criterion. *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 340 (1999).

In this case, the facts and law do not favor petitioner. Petitioner's claim of being deprived of his typewriter challenges the conditions of his confinement, not the fact or duration of that confinement. Challenges to conditions of confinement are not to be raised in federal habeas corpus proceedings, but rather, are more appropriately raised in a civil rights action filed pursuant to 42 U.S.C. § 1983. *See Heck v. Humphrey*, 512 U.S. 477, 481 (1994); *see also Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991); *Crawford v. Bell*, 599 F.2d at 891-92 (9th Cir. 1979). Moreover, plaintiff has not demonstrated that he is subject to irreparable harm, or that he is likely to succeed on the merits of his claim regarding deprivation of his typewriter. Petitioner concedes in his motion that the policy prohibiting typewriters is in response to security concerns stemming from the misuse of typewriters by one or more inmates. Petitioner's motion for an injunction will be denied.

IT IS THEREFORE ORDERED that petitioner's motion for a preliminary injunction (Docket #72) is **DENIED**.

DATED this 15th day of February, 2008.


 ROGER L. HUNT
 Chief United States District Judge